

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DEBORAH D. PETERSON, Personal :
Representative of the Estate of James C. Knipple :
(Dec.) et al., :

Plaintiffs, :

-v- :

ISLAMIC REPUBLIC OF IRAN et al., :

Defendants. :
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10-cv-4518 (KBF)

MEMORANDUM
DECISION & ORDER

KATHERINE B. FORREST, District Judge:

Currently before the Court for approval is the Fifth Report & Recommendation of Special Master Kathleen Massey dated July 3, 2018 (the “Report”). (ECF No. 962.) The Report addresses and resolves, in sum, certain issues related to the payment of thirteen special masters (the “Peterson Special Masters”) who provided services in underlying actions (the “Peterson Actions”¹) in the United States District Court for the District of Columbia (“D.D.C.”).

For the reasons stated below, the Court hereby ADOPTS and CONFIRMS the Report in its entirety.

I. BACKGROUND

On June 7, 2017, the Court appointed Kathleen N. Massey as Special Master in this action to resolve a number of disputes concerning the QSF. (ECF No. 775.) The QSF was established by the Court partially to satisfy a set of judgments

¹ For purposes of this Memorandum Decision & Order, the “Peterson Actions” refer to: (1) Peterson v. Islamic Republic of Iran, No. 1:01-cv-2094 (D.D.C.); and (2) Boulos v. Islamic Republic of Iran, No. 1:01-cv-2684 (D.D.C.).

entered against Iran for its involvement in the 1983 terrorist attack on the U.S. Marine barracks in Beirut, Lebanon. The Trustee has since made substantial distributions from the QSF, and distributions remain ongoing.

Following her appointment, Special Master Massey divided the disputes into three separate “tracks,” each involving common legal or factual issues. (ECF No. 777.) The Report at issue in this Memorandum Decision & Order does not relate directly to any of those three tracks, but rather deals with a separate application made by Loraine A. Ray (“Ray”), one of the Peterson Special Masters. The Court nonetheless presumes familiarity with Special Master Massey’s previous Reports & Recommendations (ECF Nos. 842, 845, 852, 870, 872, and 899), as well as the Court’s decisions adopting those Reports & Recommendations.

On July 3, 2018, Special Master Massey filed the Report, which addresses and resolves the aforementioned application by Ray. (See generally R. & R.) The Report recommends, in sum, that the Court:

- Construe Ray’s application as a motion for leave to intervene for the purpose of pursuing her application;
- Grant Ray leave to intervene pursuant to Fed. R. Civ. P. 24(b)(1) for the purpose of pursuing her application;
- Grant Ray’s request for relief insofar as she seeks a declaration that funds currently held in the QSF may be used to compensate Ray and the other Peterson Special Masters for their services in the Peterson Actions;

- Deny Ray’s request for relief insofar as she seeks to have this Court, as opposed to the D.D.C., fix the Peterson Special Masters’ compensation;
- Deny Ray’s request for relief insofar as she seeks to have this Court, as opposed to the D.D.C., tax such compensation as costs against Iran;
- Direct the Trustee to disburse funds from the QSF as necessary to compensate the Peterson Special Masters, if and to the extent the D.D.C. fixes their compensation;
- Direct the Trustee to account for any payment of the Peterson Special Masters by charging the amount paid as compensation against the Peterson Plaintiffs (also referred to as the “87% Plaintiffs”) in a manner that allocates the burden proportionally based on each plaintiff’s share of the total recovery; and
- Authorize the Trustee to respond to requests for information by the D.D.C. as further set forth in the Report.

(See R. & R. at 2-3.)

By Order dated July 13, 2018, and pursuant to Fed. R. Civ. P. 53(f)(2), the Court ordered that “any and all objections (or motions to adopt or modify) [the Report] be filed not later than Friday, July 20, 2018.” (ECF No. 967.) No responses or objections were filed by that deadline; accordingly, the Court considers the recommendations in the Report to be unopposed by the interested parties.

II. LEGAL PRINCIPLES

In acting on a Special Master's report and recommendation, the Court is empowered to "adopt or affirm, modify, wholly or partly reject or reverse, or resubmit to the master with instructions." Fed. R. Civ. P. 53(f)(1). Before doing so, however, the Court must "give the parties notice and an opportunity to be heard." Id.² The Court must review de novo any objections to the Special Master's findings of fact and conclusions of law. See Fed. R. Civ. P. 53(f)(3)-(4).

III. DISCUSSION

As previously noted, no party has objected to the Report's various recommendations. The Court has reviewed the Report and fully agrees with the Special Master's careful and thorough analysis. Accordingly, the Court hereby ADOPTS and CONFIRMS the Report in its entirety. The Court further commends the Peterson Special Masters for the crucial work they performed in assisting the D.D.C., and is of the view that they should be paid as expeditiously as possible.

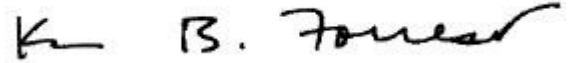
² Although some Circuit Courts of Appeal have held that this provision requires an oral hearing on the parties' objections, the Second Circuit has not adopted that approach. See Goodrich Corp. v. Town of Middlebury, 311 F.3d 154, 178 (2d Cir. 2002). In any event, no party in this case has requested oral argument, and therefore any right which might otherwise have existed has been waived.

IV. CONCLUSION

For the reasons stated above, the Court hereby ADOPTS and CONFIRMS the Report in its entirety.

SO ORDERED:

Dated: New York, New York
July 24, 2018

A handwritten signature in black ink, appearing to read "K. B. Forrest", is written above a horizontal line.

KATHERINE B. FORREST
United States District Judge